IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WA.No. 3036 of 2000(D)

AGAINST THE JUDGEMENT IN OP.31016/1999 Dated 21/08/2000
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APPELLANTS: RESPONDENTS 1 TO 3 IN OP
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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY
MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI
2. THE PAY AND ACCOUNTS OFFICER, CENTRAL PENSION
ACCOUNTING OFFICE, MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, TRIKKOOT 2 COMPLEX
(BEHIND HOTEL HYATT REGENCY)
BHIKEJI CAMA PLACE, NEW DELHI 110066
3. THE DIRECTOR GENERAL, BORDER SECURITY FORCE
DIRECTORATE GENERAL B.S.F. Hqs, BLOCK No 10
C.G.O. COMPLEX, NEW DELHI

BY ADV. SRI.P.HARIDAS, ADDL.CGSC

RESPONDENT:PETITIONER IN OP

P. NARAYANAN, S/o N.V. KUNHIRAMAN,
AGED 45 YEARS, MUTHIYALAM, KORAM P.O.
VIA PAYYANNUR, CANNORE, KERALA

BY ADV. SRI.P.J.JOSEPH
SRI.GEORGE MATHEW

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 20/07/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

Writ Appeal No 3036 of 2000

Dated: 20th July 2007

JUDGMENT

Radhakrishnan,J.

This writ appeal is preferred by the Union of India and others aggrieved by the judgment in O.P. No 31016 of 1999. Original petition was disposed of by the learned single judge placing reliance on the decision of the apex court in Raghu Nandanlal Choudhary and others v. Union of India (AIR 1988 S.C 2125). Learned single judge disposed of the writ petition quashing Exts. P4 and R3(a) and third respondent was directed to pass fresh orders within three months from the date of receipt of a copy of the judgment. The decision of the apex court in Raghu Nandanlal Chaudhary's case, supra (AIR 1988 S.C. 2125) has been subsequently clarified by the apex court in Union of India and another v. Satish Kumar (2006) 1 S.C.C. 360) wherein the apex court held that the principles laid down in Raghu Nandanlal's case must be confined to the facts of that case and it may not be used to give benefit to all and sundry. Further it was

held that so long as it is an admitted position that Rule 49 governs, payment of pension, could only be as per the Rules and when there is no challenge to the Rule and there is no ground of discrimination taken, the Rule cannot be bypassed. In such circumstances, we are inclined to allow this appeal and set aside the judgment of the learned single judge. We make it clear that the issue raised is covered by the principle laid down by the apex court in Satish Kumar's case. The appeal is allowed.

C.M.P.No 7638 of 2000 would stand dismissed.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

en/

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